



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
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April 19, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in March 2012; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during March 2012. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

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SECTION 1. DESCRIPTION OF ACTIVITIES FOR MARCH 2012

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	The Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No Data Submittal	No problems encountered.	90%
2. 2012 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	In response to a request from the County Water Quality Protection District (WQPD), Hydrometrics issued a summary of the proposed scope and objectives for the 2012 Field Sampling and Analysis Plan (FSAP), which is currently under development along with a review of all 2011 data. Hydrometrics advised the WQPD that the draft 2012 FSAP would be available for review by March 20.	Hydrometrics submitted draft FSAP for review on March 20 th .	No problems encountered.	80%
3. 2012 Groundwater and Surface Water Monitoring	Hydrometrics	No groundwater and surface water monitoring activities were performed in March 2012.	No Data Submittal	No problems encountered.	0%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP were completed by August 12 th	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
5. Corrective Measures Study (CMS)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 1. EPA, MDOJ, USDOJ, USFWS and the Custodial Trust participated in the monthly beneficiaries meeting to review Site progress and plans. 2. EPA, MDEQ, MDOJ, USDOJ, USFWS, CH2M Hill and the Custodial Trust participated in a technical meeting to review the basis and rationale for the proposed location of a third CAMU/Cell on the Lower Ore Storage Area of the Site. 3. In connection with the UL Aquifer Test, the Custodial Trust continued daily: collection of water level data in UL, Lower Lake (LL), and Prickly Pear Creek (PPC) (upstream and downstream of the dam) and turbidity monitoring (upstream of the dam, downstream of the dam and at locations in East Helena (near the Main Street Bridge and downstream). 4. EPA, MDOJ, MDEQ, USDOJ, USFWS, CH2M Hill and the Custodial Trust held a technical meeting to review phasing and construction sequencing for the proposed Evapotranspiration (ET) cover systems. 	Hydrometrics submitted revised plans for the next phase of the UL aquifer test including: UL depth and topographic surveys; data collection plans (surface water inflows and water quality samples); a water balance analysis of UL; comprehensive collection of water level data; pumping UL water; and supplemental groundwater sampling to assess changes in groundwater chemistry resulting from the UL aquifer test.		55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 5. CH2M Hill and the Custodial Trust continued work on SPHC interim measures, including: development of interim measures work plans; revisions to and refinement of interim measures construction sequencing plans for 2012 and 2013; preparation of materials and plans for technical reviews with EH beneficiaries ; follow-up on contingency planning and design requirements per regulatory agency feedback on natural resource permitting requirements for SPHC interim measures; revisions to the interim measures implementation plan (IMIP); and preliminary design of proposed interim measures. 6. Hydrometrics issued the Engineer's Inspection Report documenting their analysis of the integrity of smelter dam and recommendations for near-term actions to minimize risk of dam failure prior to removal of smelter dam under South Plant Hydraulic Control (SPHC) interim measures. 7. Hydrometrics provided an update on discussions with Burnham regarding options for relocating the existing point of diversion (POD) for Burnham irrigation water from Upper Lake (UL) (via Wilson Ditch) and recommendations for follow up with Burnham to ensure irrigation water needs are met this spring. 	Hydrometrics issued the Engineers Inspection Report for Smelter Dam on March 12 th .	No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>8. EH personnel inspected the condition and integrity of the Upper Lake (UL) diversion structure and smelter dam as part of the ongoing UL aquifer test.</p> <p>9. EPA, MDEQ, MDOJ, USDOJ, USFWS, CH2M Hill and the Custodial Trust participated in meeting on EH RCRA corrective action and interim measures, which included presentations and discussions on: EH project goals and priorities; 2012/2013 interim measures schedule and construction sequencing; managing remediation wastes under RCRA; ET cover system construction sequencing; interim measures work plans; the CMS work plan; community relations plans; and next steps.</p> <p>10. EPA and the Custodial Trust met with the County Health Director to discuss issues related to the Prickly Pear Creek (PPC) sand deposition event and plans for the meeting with the Board of County Commissioners (BOCC).</p> <p>11. The Custodial Trust and CH2M Hill reviewed key outstanding issues associated with the terms of a general construction services contract (for 2012 and 2013 interim measures), including provisions for indemnification and liquidated damages.</p>		No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>12. The Custodial Trust reviewed with EPA the two options for contracting for construction services with CH2M Hill—as owner’s representative under the existing master professional services contract or as general construction contractor.</p> <p>13. EPA and the Custodial Trust made a presentation to the BOCC and representatives from the City of East Helena on community relations plans, SPHC interim measures and other Site activities.</p> <p>14. CH2M Hill and the Custodial Trust continued work on SPHC and ET Cover System interim measures, including: continued development of interim measures work plans; revisions to and refinement of interim measures construction schedule and sequencing plans for 2012 and 2013; preparation of materials and plans for technical reviews with EH beneficiaries (March 5 and 7); follow-up on natural resource permitting for SPHC interim measures; and preliminary design of proposed interim measures.</p> <p>15. The Custodial Trust provided MDEQ with estimated hazardous waste volumes to assist the State with its analysis of current hazardous waste fees</p> <p>16. The Custodial Trust supplied information regarding real estate taxes and the qualified settlement fund provisions of the Settlement Agreement to support MDEQ’s analysis of current hazardous waste fees.</p>		No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>17. The State provided its responses to the beneficiary survey of EH goals and priorities.</p> <p>18. CH2M Hill notified the Custodial Trust that, following a meeting with their President, CH2M Hill would accept all contract changes requested by the Custodial Trust, including liquidated damages of up to \$10 million.</p> <p>19. The Custodial Trust submitted a memorandum to EPA documenting its recommended schedule for design and construction of SPHC and Evapotranspiration (ET) Cover System IMs, including the rationale for its recommendation that construction associated with SPHC IMs be deferred until 2013.</p>		No problems encountered.	55%
6. Baseline Ecological Risk Assessment (BERA)	Gradient	1. The Custodial Trust requested additional information on the US Department of Agriculture (USDA) sampling and bioavailability studies and reviewed follow-up plans with beneficiaries.	No Data Submittal	No problems encountered.	100%
7. Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	No HHRA activities in March 2012.	No Data Submittal	No problems encountered.	85%
8. Consent Decree Modification	Custodial Trust/DOJ	No Consent Decree modifications occurred during the month of March	No Data Submittal	No problems encountered.	100%
9. Groundwater Technical Working Group (TWG)-Groundwater Model Work Plan	Custodial Trust/EPA/MDEQ/MDOJ/AMEC	AMEC continued work on the groundwater model in the month of March.	No Data Submittal	No problems encountered.	30%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
10. Regulatory Compliance	Custodial Trust	1. EH personnel completed monthly and weekly inspections of health and safety systems, CAMU #1 and #2 liners, temporary liners, natural gas hoses and hazardous waste roll-offs.	No Data Submittal	No problems encountered.	On Going
11. Health and Safety	Custodial Trust	1. East Helena Personnel completed OSHA Hazwoper 8-hour refresher training. 2. EH personnel made repairs to temporary liners that had been damaged by high winds. 3. The Custodial Trust and Hydrometrics updated emergency response and health & safety plans and provided training to the Fire Department and Mayor of East Helena. 4. The Custodial Trust and Hydrometrics evaluated the need to update emergency, health & safety and standard operating procedures for responding to a potential H ₂ S leak in the HDS water treatment plant.	No Data Submittal	No problems encountered.	On Going
12. Documents and Records	Custodial Trust	1. The Custodial Trust submitted to the beneficiaries for review and comment its proposed policy for the allocation of charges associated with records segregation and management to the Administrative Account or site-specific cleanup accounts.	No Data Submittal	No problems encountered.	On Going
13. Site Security	Custodial Trust	1. Hydrometrics and the Custodial Trust initiated plans to provide the East Helena Fire Department with key card access to the Site (in response to a request from EPA). 2. The Custodial Trust worked with the East Helena Police to remove transients camped near the Rodeo Grounds.	No Data Submittal	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
14. Water Treatment Plant	Custodial Trust	<ol style="list-style-type: none"> EH personnel operated the HDS water treatment plant to treat stored water. Monthly DMR for WTP submitted on March 21st. 	Monthly DMR for WTP submitted on March 21 st .	No problems encountered.	On Going
15. Plant Operations	Custodial Trust	<ol style="list-style-type: none"> EPA and the Custodial Trust identified options for temporary storage of one or more East Helena Fire Department fire trucks due to the need to repair a break in the primary water main. The Custodial Trust responded to questions from the City of East Helena, the County Historic Preservation Officer and the <i>Independent Record</i> regarding options and requirements for temporarily locating the Prickly Pear Junction Building on Custodial Trust property. 	No Data Submittal	No problems encountered.	Ongoing
16. Personnel and Office Operations	Custodial Trust	<ol style="list-style-type: none"> The Custodial Trust upgraded its on-Site server to a google-based system (from the existing godaddy system) to improve electronic mail performance and capacity. National Property Inspections submitted a written report of its inspection of the modular office building to the Custodial Trust. The Custodial Trust continued making arrangements associated with the modular office, including: inspection of proposed modular office building, submittal of an application for a street address for the new office location; completion of zoning permit documentation for the City of East Helena; and submittal of an application to Northwestern Energy for utility service. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
17. Financial Affairs	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust provided information requested by Galusha Higgins and Galusha required to finalize the year-end 2011 financial statement for the East Helena Cleanup Account. 2. The Custodial Trust and CH2M Hill met to review all outstanding purchase orders, scopes of work and cost proposals aligned with the approved 2012 East Helena Cleanup (EHCU) Budget. 3. The Custodial Trust documented its recommendations to the beneficiaries for allocating costs of real property sale to either the Administrative Account or site-specific clean up accounts consistent with the requirements of the Settlement Agreement. 4. The beneficiaries advised the Custodial Trust of their approval for paying costs associated with the sale to Chemet from the EH Cleanup Account and the need for beneficiary agreement on the appropriate account to pay costs of sale for other EH real property transactions. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
18. Property Use/Development	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust made a presentation to the beneficiaries on its recommendations for business terms, scope and next steps for proceeding with purchase & sale negotiations with Chemet. 2. Metallica (f/k/a H&H Metals) weighed and loaded approximately 8,000 tons of crushed, unfumed slag on eight (8) rail cars for transport to Trail, BC. 3. The Custodial Trust provided the beneficiaries with a list of potential licensed appraisers to prepare a summary appraisal report of the property proposed for sale to Chemet. 4. The Custodial Trust and its attorneys (Garlington Lohn & Robinson) reviewed business terms and drafting requirements for a purchase & sale agreement with American Chemet (Chemet) for sale of two parcels (20 acres and 2.5 acres) to Chemet. 5. In response to a request from the Custodial Trust, MDOJ advised the Custodial Trust that the State had not completed its review of the draft Opportunities & Constraints (O&C) Plans and therefore was unwilling to allow the Custodial Trust to discuss the draft O&C Plans with key stakeholders. 6. The Custodial Trust provided MDOJ with a hard copy of MXD Strategies preliminary market study. 7. The Custodial Trust provided MDEQ with information about outdoor amphitheaters as a potential end-use that could potentially be integrated into the ET cover systems. 	The Custodial Trust submitted a memorandum to the beneficiaries documenting its recommended responses to the City of East Helena's revised request for parcels to be conveyed by the Custodial Trust for public roads, utility easements and other rights-of-way.	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Property Use/ Development (cont.)	Custodial Trust	<ol style="list-style-type: none"> 8. EPA and the Custodial Trust met with the Superintendent of the East Helena School District to discuss their interest in acquiring some or all of the Dartman Farm property. 9. Based on feedback from MDOJ, the Custodial Trust began contacting potential licensed appraisers to prepare a summary appraisal report of the property proposed for sale to Chemet. 10. The Custodial Trust received beneficiary approval to convey the SAR Parcel by expanding the EVFD parcel and proposed that a determination of final size (3 to 5 acres) and configuration of the SAR Parcel be established based on an analysis by CTA of any impacts on frontage, access and development potential of the remaining Custodial Trust property. 11. The beneficiaries authorized the Custodial Trust to retain Greg Thornquist of Elkhorn Appraisal Services to prepare a summary appraisal report of the 20-acre parcel and an analysis and review of the Chemet-commissioned appraisal of the 2.5-acre parcel. 	No Data Submittal	No Problems Encountered	Ongoing
19. Community and Local Meetings	Custodial Trust	<ol style="list-style-type: none"> 1. Progress report on EH activities by EPA and the Custodial Trust at the regularly scheduled East Helena City Council meeting on March 6th. 2. Meeting with the Board of County Commissioners, the City of East Helena, EPA and the Custodial Trust to review EH activities and plans. 	No Data Submittal	No Problems Encountered	Ongoing

SECTION 2. ACTIVITIES SCHEDULED FOR APRIL 2012

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	Hydrometrics to begin implementation of FSAP in April 2012 which includes groundwater and surface water sampling.
Baseline Ecological Risk Assessment (BERA) and Human Health Risk Assessment (HHRA)	CH2M Hill, Exponent, Gradient	No activities planned for April 2012
Corrective Measures Study	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> Continuation of Upper Lake Drawdown test. Prickly Pear Creek diversion permitting requirements. Preparation of an Emergency Action Plan for Smelter Dam Submittal of 2012 IM Work Plan on April 2nd.
Property Use/Development	East Helena	<ul style="list-style-type: none"> H&H Metals to continue slag crushing. Meeting with Chemet, EPA, MDEQ, MDOJ, USDOJ, CTA, and MRL to discuss Chemet's expansion needs.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in April 2012.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in April 2012.
Water Treatment Plant	Custodial Trust	No plans to operate water treatment plant in April 2012.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly beneficiaries meeting.
EHECTIC Meeting	Custodial Trust/EPA	Meeting scheduled on April 4 th .

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in March 2012. A complete listing of projects completed in 2012 will be reported in the January 2013 Progress Report.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

There were no changes in personnel in March 2012.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President